

Remarks

Objection to the Specification

The Examiner objected to the specification on page 1 for informalities, specifically, the status of the parent application needed to be updated. Applicant has amended paragraph [0001] to indicate that the parent application is abandoned. This amendment to the specification adds no new matter. Applicant requests that the objected be withdrawn.

Amendment to the Specification

Applicant has amended paragraph [0030] to further describe the embodiment of the invention in which at least one transverse hole is disposed through the construction material, with transverse being defined as across the shorter width of the construction material. Support for this amendment is clearly seen in Figure 12 of the original specification in which a tube 25 with flares 29 is seen positioned through the diameter of the construction material 10. In Figure 12, each of the layers is shown to be divided by the tube 25 to form upper and lower sections of each layer on each side of tube 25. Figures 9 and 13 show embodiments of the construction material including a plurality of holes. It is obvious to those of skill in the art that to pass the tube transversely through the construction material, a transverse hole must be drilled or otherwise constructed or disposed through the diameter of the construction material before the tube is passed through the construction material. Applicant respectfully requests acceptance of this amendment into the specification.

Amended and New Claims

Applicant has amended Claims 1, 11 15, 16, and 17 and added new Claims 18 and 19. Claims 1 and 16 have been amended to add the limitation of at least one transverse hole disposed through the construction material. Support for these amendments is found in Figures 9, 12, and 13 and in amended paragraph 0030 discussed above. Method Claim 15 has been amended to add

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

the limitation of drilling at least one transverse hole through the construction material. Support for this amendment is also found in Figures 9, 12, and 13 and in amended paragraph 0030.

Claims 11 and 17 have been amended to claim the respective inventions in which at least one tube is disposed through at least one of the at least one transverse holes. Support for these amendments is found in Figure 12 and in amended paragraph 0030.

New Claims 19 and 21 depend from amended Claims 11 and 17, respectively, and claim the embodiment in which a nut and bolt assembly is passed through the at least one tube. Support for the inventions claimed in Claims 19 and 21 is found in Figures 10 and 11 and paragraphs 0030 and 0033. Applicant respectfully requests entry and allowance of these amended claims.

The Rejections of Claims 1, 3, 4, 6-10, 13 and 14 under 35 USC §102(b)

In the Office Action of December 16, 2005 the Examiner rejected Claims 1, 3, 4, 6-10, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,340,630 ("Tripp"). Applicant respectfully traverses these rejections and requests reconsideration.

"A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference." *Vandergaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). MPEP § 2131. (Emphasis added.) Applicant has amended independent Claim 1 to include the limitation of at least one transverse hole disposed through the construction material. Support for this amendment is found in Figures 9, 12, and 13 and in amended paragraph 0030. Applicant respectfully points out that the Tripp patent fails to teach an embodiment in which the construction material comprises even one transverse hole through the material. Therefore, the Tripp patent fails as a reference under § 102 (b) as it fails to disclose each limitation of Claim 1 as set forth in that claim. Applicant respectfully requests reconsideration and allowance of Claim 1.

Claims 3, 4, 6-10, 13 and 14 depend from Claim 1 and thus incorporate all the limitations of that claim. Because, as discussed above, the Tripp patent fails to anticipate all the elements of

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

Claim 1, it also fails to anticipate Claims 3, 4, 6-10, 13 and 14. Applicant respectfully requests the removal of the rejections of Claims 3, 4, 6-10, 13 and 14 and allowance of those claims.

The Rejections of Claims 1, 3, 4, 6, 7, 13 and 14 under 35 USC §102(b)

In the Office Action of December 16, 2006 the Examiner rejected Claims 1, 3, 4, 6, 7, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,246,754 ("Miller"). Applicant respectfully traverses these rejections and requests reconsideration.

Applicant has amended independent Claim 1 to include the limitation of at least one transverse hole disposed through the construction material. Support for this amendment is found in Figures 9, 12 and 13 and in amended paragraph 0030. Applicant respectfully points out that the Miller patent fails to teach an embodiment in which the construction material comprises even one transverse hole through the material. Therefore, the Miller patent fails as a reference under § 102 (b) as it fails to disclose each limitation of Claim 1 as set forth in that claim. Applicant respectfully requests reconsideration and allowance of Claim 1.

Claims 3, 4, 6, 7, 13 and 14 depend from Claim 1 and thus incorporate all the limitations of that claim. Because, as discussed above, the Miller patent fails to anticipate all the elements of Claim 1, it also fails to anticipate Claims 3, 4, 6, 7, 13 and 14. Applicant respectfully requests the removal of the rejections of Claims 3, 4, 6, 7, 13 and 14 and allowance of those claims.

The Rejections of Claims 1, 3, 4, 5, 6, 8, 10, 13 and 14 under 35 USC §102(b)

In the Office Action of December 16, 2005 the Examiner rejected Claims 1, 3, 4, 5, 6, 8, 10, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,096,772 ("Snyder"). Applicant respectfully traverses these rejections and requests reconsideration.

Applicant has amended independent Claim 1 to include the limitation of at least one transverse hole disposed through the construction material. Support for this amendment is found in Figures 9, 12 and 13 and in amended paragraph 0030. Applicant respectfully points out that the Snyder patent fails to teach an embodiment in which the construction material comprises

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

even one transverse hole through the material. Therefore, the Snyder patent fails as a reference under § 102 (b) as it fails to disclose each limitation of Claim 1 as set forth in that claim. Applicant respectfully requests reconsideration and allowance of Claim 1.

Claims 3, 4, 5, 6, 8, 10, 13 and 14 depend from Claim 1 and thus incorporate all the limitations of that claim. Because, as discussed above, the Snyder patent fails to anticipate all the elements of Claim 1, it also fails to anticipate Claims 3, 4, 5, 6, 8, 10, 13 and 14. Applicant respectfully requests the removal of the rejections of Claims 3, 4, 5, 6, 8, 10, 13 and 14 and allowance of those claims.

The Rejections of Claims 2, 5, 15 and 16 under 35 USC §103(a)

In the Office Action of December 16, 2005 the Examiner rejected Claims 2, 5, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,340,630 ("Tripp"). Applicant respectfully traverses these rejections and requests reconsideration.

Claims 2 and 5

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicant has amended independent Claim 1 to include the limitation of at least one transverse hole disposed through the construction material. Because Claims 2 and 5 depend from amended Claim 1, they incorporate the limitations of Claim 1. Support for this amendment is found in Figures 9, 12 and 13 and in amended paragraph 0030. Applicant respectfully submits that Tripp fails to teach or suggest all of the limitations of Claims 2 and 5 and that Tripp does not address the problem solved by the transverse holes or the advantages gained by including the transverse holes on the construction material. Thus, Claims 2 and 5 are patentable over Tripp as Tripp fails to establish a *prima facie* case of obviousness against Claim 2 and 5 as it fails to teach or disclose all the limitations of Claim 2 and 5. Applicant respectfully requests reconsideration and allowance of those claims.

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

Claim 15

Claim 15 has been amended to include the additional step of creating at least one transverse hole through the cylindrical pole.

Applicant respectfully submits that the Tripp patent fails to disclose at least one transverse hole drilled or otherwise disposed (created) through the construction material. Applicant submits that Claim 15 is a method of producing a construction material as described in Claim 1. Consequently, just as Tripp fails to teach or suggest a construction material as recited in the amended Claim 1, Tripp also fails to teach or suggest a method of producing a construction material with at least one hole disposed through it as recited in the amended Claim 15. Therefore, Applicant respectfully submits that Tripp fails to teach or suggest all of the limitations of Claim 15 thus failing to establish a *prima facie* case of obviousness against amended Claim 15. Applicant respectfully requests reconsideration and allowance of that claim.

Claim 16

Applicant has amended independent Claim 16 to include the limitation of at least one transverse hole disposed through the construction material. Support for this amendment is found in Figures 9, 12 and 13 and in amended paragraph 0030. Applicant respectfully points out that the Tripp patent fails to teach an embodiment in which the construction material comprises even one transverse hole through the material. Therefore, the Tripp patent fails as a reference under § 103 (a) as it fails to disclose each limitation of Claim 16 as set forth in the claim. Therefore, Applicant respectfully submits that Tripp fails to teach or suggest all of the limitations of Claim 16 thus failing to establish a *prima facie* case of obviousness against amended Claim 16. Applicant respectfully requests reconsideration and allowance of that claim.

Applicant courteously requests that the rejections of Claims 2, 5, 15 and 16 be withdrawn and those claims be allowed.

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

The Rejection of Claim 16 under 35 USC §103(a)

In the Office Action of December 16, 2006 the Examiner rejected Claim 16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,096,772 ("Snyder"). Applicant respectfully traverses this rejection and requests reconsideration.

Applicant has amended independent Claim 16 to include the limitation of at least one transverse hole disposed through the construction material. Support for this amendment is found in Figures 9, 12 and 13 and in amended paragraph 0030. Applicant respectfully points out that the Snyder patent fails to teach an embodiment in which the construction material comprises even one transverse hole through the material. Therefore, the Snyder patent fails as a reference under § 103 (a) as it fails to disclose each limitation of Claim 16 as set forth in the claim. Therefore, Applicant respectfully submits that Snyder fails to teach or suggest all of the limitations of Claim 16 thus failing to establish a *prima facie* case of obviousness against amended Claim 16. Applicant respectfully requests reconsideration and allowance of that claim.

Attorney Docket No. HANP:101aUS
U.S. Patent Application No. 10/708,982
Reply to Office Action of December 16, 2005
Date: March 16, 2006

Conclusion

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,



C. Richard Lohrman, Esq.
Registration No. 46,878
Attorney for Applicant
Simpson & Simpson PLLC
5555 Main Street
Williamsville, NY 14221
Phone: (716) 626-1564
Fax: (716) 626-0366

CRL/TGM
Dated: March 16, 2006